

subdivision standards and their enforcement, that the certification process described in paragraph (c)(2) of this section is inadequate to protect HUD's underwriting risk in an area, HUD may limit the endorsement of mortgages in the area to those mortgages processed in accordance with the procedures set forth in this paragraph (d). HUD will review all Appraiser/Review Appraiser Checksheets submitted in areas subject to a determination made under this paragraph (d)(2).

[58 FR 41338, Aug. 3, 1993, as amended at 58 FR 45553, Aug. 30, 1993]

**§ 203.14 Builders' warranty for initial year of occupancy.**

If the property was not completed more than 1 year before the date of the mortgage insurance application and the loan-to-value ratio for the mortgage exceeds 90% in accordance with § 203.18, the builder or other seller must provide to the mortgagor a 1-year warranty that:

- (a) Meets the requirements of section 801 of the Housing Act of 1954, if applicable;
- (b) Warrants against defects in equipment, material or workmanship resulting in noncompliance with standards of quality as measured by acceptable trade practices;
- (c) Is enforceable by the original purchaser of the property and any successor owners during the initial year of occupancy; and
- (d) Otherwise is acceptable in form and content to the Secretary.

(Approved by the Office of Management and Budget under control number 2502-0059).

[64 FR 14574, Mar. 25, 1999]

EFFECTIVE DATE NOTE: At 64 FR 14574, Mar. 25, 1999, § 203.14 was revised, effective Apr. 27, 1999. For the convenience of the user, the superseded text is set forth as follows:

**§ 203.14 Builders' warranty.**

Applications relating to proposed construction must be accompanied by an agreement in form satisfactory to the Secretary, executed by the seller or builder or such other person as the Secretary may require, and agreeing that in the event of any sale or conveyance of the dwelling, within a period of one year beginning with the date of initial occupancy, the seller, builder, or such other person will at the time of such sale or con-

veyance deliver to the purchaser or owner of such property a warranty in form satisfactory to the Secretary warranting that the dwelling is constructed in substantial conformity with the plans and specifications (including amendments thereof or changes and variations therein which have been approved in writing by the Secretary) on which the Secretary has based on the valuation of the dwelling. Such agreement must provide that upon the sale or conveyance of the dwelling and delivery of the warranty, the seller, builder or such other person will promptly furnish the Secretary with a conformed copy of the warranty establishing by the purchaser's receipt thereon that the original warranty has been delivered to the purchaser in accordance with this section.

[57 FR 58346, Dec. 9, 1992]

**§ 203.15 Certification of appraisal amount.**

An application with respect to insurance of mortgages must be accompanied by an agreement satisfactory to the Commissioner, executed by the seller, builder or such other person as may be required by the Commissioner, whereby the person agrees that before any sale of the dwelling, the person will deliver to the purchaser of the property a written statement, in a form satisfactory to the Commissioner, setting forth the amount of the appraised value of the property as determined by the Commissioner.

[58 FR 41001, July 30, 1993]

**§ 203.16 Certificate and contract regarding use of dwelling for transient or hotel purposes.**

Every application filed with respect to insurance of mortgages on a two-, three-, or four-family dwelling, or a single-family dwelling which is one of a group of 5 or more single-family dwellings held by the same mortgagor, must be accompanied by a contract in form satisfactory to the Commissioner, signed by the proposed mortgagor covenanting and agreeing that so long as the proposed mortgage is insured by the Commissioner the mortgagor will not rent the housing or any part thereof covered by the mortgage for transient or hotel purposes, together with the mortgagor's certification under oath that the housing or any part thereof covered by the proposed mortgage will not be rented for transient or hotel purposes. For the purpose of this

subchapter rental for transient or hotel purposes shall mean (a) rental for any period less than 30 days or (b) any rental if the occupants of the housing accommodations are provided customary hotel services such as room service for food and beverages, maid service, furnishing and laundering of linen, and bellboy service.

**§ 203.16a Mortgagor and mortgagee requirement for maintaining flood insurance coverage.**

(a) If the mortgage is to cover property that:

(1) Is located in an area designated by the Federal Emergency Management Agency (FEMA) as a flood plain area having special flood hazards, or

(2) Is otherwise determined by the Commissioner to be subject to a flood hazard, and if flood insurance under the National Flood Insurance Program (NFIP) is available with respect to such property, the mortgagor and mortgagee shall be obligated, by a special condition to be included in the mortgage insurance commitment, to obtain and to maintain NFIP flood insurance coverage on the property during such time as the mortgage is insured.

(b) No mortgage shall be insured which covers property located in an area that has been identified by FEMA as an area having special flood hazards unless the community in which the area is situated is participating in the National Flood Insurance Program, and such insurance is obtained by the mortgagor. Such requirement for flood insurance shall be effective July 1, 1975, or one year after the date of notification by FEMA to the chief executive officer of a flood prone community that such community has been identified as having special flood hazards, whichever is later.

(c) The flood insurance shall be maintained during such time as the mortgage is insured in an amount at least equal to either the outstanding balance of the mortgage, less estimated land costs, or the maximum amount of NFIP insurance available with respect to the property, whichever is less.

[57 FR 58346, Dec. 9, 1992]

ELIGIBLE MORTGAGES

**§ 203.17 Mortgage provisions.**

(a) *Mortgage form.* (1) The term *mortgage* as used in this part, except § 203.43c, means a first lien as is commonly given to secure advances on, or the unpaid purchase price of, real estate under the laws of the jurisdiction where the property is located, and may refer both to a security instrument creating a lien, whether called a *mortgage*, *deed of trust*, *security deed* or another term used in a particular jurisdiction, as well as the credit instrument, or note, secured thereby.

(2)(i) The mortgage shall be in a form meeting the requirements of the Commissioner. The Commissioner may prescribe complete mortgage instruments. For each case in which the Commissioner does not prescribe complete mortgage instruments, the Commissioner

(A) Shall require specific language in the mortgage which shall be uniform for every mortgage, and

(B) May also prescribe the language or substance of additional provisions for all mortgages as well as the language or substance of additional provisions for use only in particular jurisdictions or for particular programs.

(ii) Each mortgage shall also contain any provisions necessary to create a valid and enforceable secured debt under the laws of the jurisdiction in which the property is located.

(b) *Mortgage multiples.* A mortgage shall involve a principal obligation in a multiple of \$1.

(c) *Payments.* The mortgage shall:

(1) Come due on the first of the month.

(2) Contain complete amortization provisions satisfactory to the Secretary and an amortization period not in excess of the term of the mortgage.

(3) Provide for payments to principal and interest to begin not later than the first day of the month following 60 days from the date the mortgage is executed (or the date a construction mortgage is converted to a permanent mortgage, if applicable).

(d) *Maturity.* The mortgage shall have a term of not more than 30 years from the date of the beginning of amortization.